



INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-1218 (Rescission)]

Certain Variable Speed Wind Turbine Generators and Components Thereof; Notice of Commission Determination to Institute a Rescission Proceeding; Rescission of Two Cease and Desist Orders; Termination of the Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a rescission proceeding and to grant a petition to rescind two cease and desist orders (“CDOs”) issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 8, 2020, based on a complaint filed on behalf of General Electric Company of Boston, Massachusetts (“GE”). 85 FR 55492-93 (Sept. 8, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as supplemented and amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain variable speed wind turbine generators and components thereof by reason of infringement of one or more of claims 1, 3, 6, 7, 12, 15-16, 21-24, 29, 30, and 33-38 of U.S. Patent No. 6,921,985 (“the ’985 patent”) and claims 1 and 2 of the U.S. Patent

No. 7,629,705 (“the ’705 patent”). *Id.* at 55493; Order No. 10 (Dec. 2, 2020), *unreviewed by* Comm’n Notice (Dec. 22, 2020). The Commission’s notice of investigation named as respondents Siemens Gamesa Renewable Energy Inc. of Orlando, Florida (“SGRE Inc.”); Siemens Gamesa Renewable Energy A/S of Brande, Denmark (“SGRE A/S”); and Gamesa Electric, S.A.U. of Zamudio, Spain (“Gamesa”) (collectively, “SGRE”). 85 FR 55493. The Office of Unfair Import Investigations is not a party to the investigation. *Id.*

On January 18, 2022, the Commission determined that GE showed a violation of section 337 by SGRE with respect to claims 29, 30, 33-35, and 37 of the ’985 patent, but did not show a violation with respect to claims 1, 6, and 12 of the ’985 patent or any claim of the ’705 patent. 87 FR 3586-87 (Jan. 24, 2022). The Commission further found that GE showed that SGRE’s full-converter wind turbine products with early versions of software infringe claims 29, 30, 33-35, and 37 of the ’985 patent, but did not show that SGRE’s full-converter wind turbine products with later versions of software or SGRE’s doubly-fed induction generator (“DFIG”) wind turbine products infringe those claims. The Commission issued a limited exclusion order (“LEO”) and three CDOs against the three SGRE entities, but specified that those remedial orders did not cover: (1) DFIG wind turbine products; (2) full-converter wind turbine products with late versions of software; (3) wind turbine products that were subject to a license agreement between GE and SGRE’s predecessor; and (4) wind turbine products that use GE Converteam power conversion units. Additionally, the Commission found that the remedial orders should have an exemption for the service and repair of existing wind turbine generators based on the public interest factors.

On March 25, 2022, the Commission issued a corrected Commission opinion. 87 FR 18396 (Mar. 30, 2022). The corrections clarified which component contains the relevant software for determining whether a full-converter wind turbine product infringes.

On June 24, 2022, GE filed a petition to rescind the CDOs against SGRE A/S and Gamesa. On July 6, 2022, SGRE A/S and Gamesa filed a response indicating that they do not oppose the rescission of the CDOs issued against them.

Having reviewed GE's petition seeking to rescind the CDOs and SGRE A/S's and Gamesa's response indicating no opposition to rescinding the CDOs, the Commission finds that the conditions which led to the issuance of those CDOs no longer exist, and therefore, granting the petition to rescind is warranted under section 337(k) (19 U.S.C. 1337(k)). The Commission also finds that the requirements of Commission Rule 210.76(a) (19 CFR 210.76(a)) are satisfied. Accordingly, the Commission has determined to institute a rescission proceeding and to grant the petition to rescind the CDOs issued against SGRE A/S and Gamesa. The rescission proceeding is terminated.

The Commission vote for this determination took place on July 26, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 26, 2022.

Katherine Hiner,
Acting Secretary to the Commission.

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